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August 15, 2022

VIA ECF

Hon. Sarah Netburn, U.S.M.J.
United States District Court
Thurgood Marshall Courthouse
40 Foley Square, Room 430
New York, NY 10007

Re: *Arthur Balder v. Susan Sarandon, et al*, Case No.: 1:22-cv-06401-VEC-SN

Hon. Judge Netburn:

We represent Defendant Susan Sarandon (the “Defendant”) in this action. This letter is submitted pursuant to I.A and I.G. of your Honor’s Individual Practices, to respectfully request that the Court set a briefing schedule for Defendant’s anticipated motion to dismiss Plaintiff Arthur Balder’s (“Plaintiff”) Amended Complaint [ECF Dkt. No. 8] as against Defendant.

In addition to the other issues that will be raised in the anticipated motion under 12(b)(6), Defendant was never properly served with process, and as such it is Defendant’s position that the time for Defendant to respond has not begun to run. However, had service of process been properly effectuated, the time for Defendant to respond under F.R.C.P. § 15(a)(3) would be tomorrow, August 16, 2022, i.e., fourteen (14) days after the amended complaint was filed by the Plaintiff. [ECF Dkt. No. 8]. As such, and in an abundance of caution, we are writing to respectfully request an extension of the response deadline, and to propose a briefing schedule for Defendant’s anticipated motion. Defendant proposes the following schedule:

Defendant’s Moving Papers: on or before September 23, 2022;
Plaintiff’s Opposition: on or before October 21, 2022; and
Defendant’s Reply: on or before November 11, 2022.

The reason for this request is that our office was only retained recently prior to removal to this Court. The original Complaint was 74 pages long and the Amended Complaint is 175 pages long. As such the undersigned counsel needs some additional time to prepare the response. That is especially true in light of previously existing workload and deadlines that the undersigned has been engaged with in other matters over the past two weeks. The undersigned has had significant briefings due in three other motions to dismiss in the last two weeks and had to file an opposition to an emergency stay motion before the Second Circuit today, which is also the reason this request is being filed today.

There have been no prior requests for adjournment or extension.

We have conferred with Mr. Balder by email, and he has indicated that does not consent to the request. Our understanding of Mr. Balder's reasons for refusing consent is that he believes Defendant was properly served, as he contends that the summons was delivered via USPS with signature confirmation and that the Amended Complaint was received via ECF. Mr. Balder has demanded that Defendant answer by August 26, 2022, and stated that the "fact that you moved the case to federal court does not mean you don't know there is a case there and she is a defendant in it. You cannot be there 'only for dismissal,' because you received Amended Complaint duly and on time."

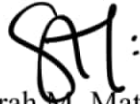
Defendant respectfully submits that the issue of whether proper service of process has been effectuated is an issue to be resolved by the motion and does not affect Defendant's request that the Court extend any response deadlines and set a briefing schedule to allow Defendant time to prepare her response.

Defendant is seeking to respond to the amended complaint via motion and for these reasons respectfully requests that Defendant be given adequate time to prepare her motion and that the proposed briefing schedule be set.

We greatly appreciate Your Honor's time and consideration in this matter.

Respectfully Submitted,

ADELMAN MATZ P.C.

A handwritten signature in black ink, appearing to be "SM" with a colon, representing Sarah M. Matz.

Sarah M. Matz, Esq.

Cc. Arthur Balder (via ECF pursuant to Court Authorization)